

July 12, 1999

Mr. Jim Nyarady
Manger, Strategy Evaluation Section
Stationary Source Division
California Air Resources Board
2020 L Street
PO Box 2815
Sacramento, California 95812

Dear Mr. Nyarady,

SUBJECT: COMMENTS ON NOTICE OF PREPARATION FOR CARB SUGGESTED
CONTROL MEASURE FOR ARCHITECTURAL COATINGS

Kessler & Associates, Inc., a government affairs firm, represents the Dunn-Edwards Corporation (Dunn-Edwards) a Los Angeles, California-based manufacturer and seller of quality architectural coatings. This letter is in response to California Air Resources Board's (CARB's) Notice of Preparation (NOP) prepared for the proposed Suggested Control Measure (SCM) for Architectural Coatings.

Thank you for allowing us the opportunity to comment on the potential impacts of this proposed control measure.

INTRODUCTION

Regulation of paint impacts the environment in various ways, depending on the nature of the regulation. For example, reducing VOCs under certain conditions may actually contribute to ozone nonattainment because of the concept of negative reactivity.¹ CARB is currently examining promulgating a SCM for paint – a measure intended to have a positive impact on ozone non-attainment in California. The true impact on the environment of regulating the VOCs is currently the subject of debate and varied opinions. CARB's ultimate decision may very well dictate whether regulating VOCs will have a beneficial or detrimental impact on preventing ozone non-attainment in California.

To answer questions (not only on the state level, but the federal as well) regarding reactivity, Congress funded the construction of an air chamber to be built at the University of California at Riverside. Congress mandated that this chamber be utilized for the specific purpose of determining if and when the reduction of VOCs in paint is warranted. While Dunn-Edwards understands that drafting this SCM is currently

¹ During 1998, representatives, officers and owners of the Dunn-Edwards Corporation communicated with CARB on issues relating to reactivity. Comments made by Dunn-Edwards during those meetings are incorporated by reference into this document.

underway, we believe that any VOC reduction should be postponed until the results of the chamber tests are known. This is warranted scientifically as well as from a policy position. With the "answer on the way," there is no need to have any potentially negative environmental (or economic) impact due to haste. If CARB determines that other reasons dictate the issuance of its SCM, Dunn-Edwards recommends that CARB incorporate the chamber's findings once they are published.

An SCM/state-wide approach might be counter-productive and/or inefficient because of: (a) differences in reactivity among areas, (b) differences in air quality problems among areas (i.e. stringent rules may not be required in same areas), (c) differences in uses/needs/exposure for architectural coatings, (d) different meteorological conditions, and, (e) the necessity to have stringent and extreme cost-ineffective rules.

SPECIFIC COMMENTS

INTRODUCTION

Page 1-1 states, "the proposed project is essentially a model rule intended to reduce volatile organic compound emissions from architectural coatings." This SCM does not recommend regulating VOC emissions, but rather regulating the VOC content of architectural coatings. All VOCs may not contribute equally, if at all, to ozone formation. The SCM needs to focus on VOC emissions. If reliance on test method.24 is the basis for VOC content, then Dunn-Edwards recommends changing/modifying this test method to more accurately reflect VOC emissions from the application of paint.

Various parts of this section deal with the SCM as well as the NOP being utilized as a model for individual air districts. Dunn-Edwards is concerned that such an approach does not adequately address the significant environmental/ecological/meteorological variations found within the state. Due to these variations, individual districts must alter CARB's EIR to such a degree that, in reality, air district resources may not, in the long run, be saved. Each district will still have to comply with CEQA to a level that reliance on the NOP/Program EIR may not provide any true assistance.

Page 1-2 to 1-3 state that CEQA "guidelines allow a lead agency to prepare a Program EIR for a series of actions that can be characterized as one large project and are related: (1) geographically, (2) as logical parts in a chain of contemplated actions, or (3) in connection with the issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program." (Emphasis added.) The first part of this statement - that this Program EIR is one large project is, we believe, inaccurate. Throughout the NOP, CARB states that individual districts will have to decide the environmental impact of the rule. In addition, by its very nature, this SCM may or may not be adopted by specific districts. Furthermore, what rule each district adopts may differ significantly from the SCM. As such, this project is not one large project, but

rather a series of smaller ones each of which is within each district's jurisdiction to decide to use or not.

In addition, Dunn-Edwards believes that the SCM is not related geographically because, in addition to the statements above about each districts discretion, the state is made up of different airsheds, each with its own "needs" regarding reactivity as well as VOCs from paint emissions volume. Neither Section (2) nor Section (3) apply because this is not part of a chain of actions (again, the discretion of each district), nor is it a continuing program (CARB does not have direct authority to regulate VOCs from paint).

As such, Dunn-Edwards believes that a Program EIR may not be appropriate in this matter.

PROJECT DISCRPTION

This section makes statements concerning uniformity. Dunn-Edwards is concerned that the regulations based on specific reactivity needs of the different airshed not be sacrificed to rules based on the policy decision that uniformity is required.

ALTERNATIVES

We strongly encourage the inclusion and consideration of the alternatives listed on page 1-9, particularly: performance-based standards, reactivity, product line averaging (based upon the VOC categories and levels mandated by South Coast Air Quality Management District, or examining the specific VOC categories and numbers found the federal architectural coating rule), and a seasonal approach. In addition, we urge CARB to consider an alternative based on the availability of specific VOCs emitted from paint to become available and part of an ozone nonattainment chemical reaction.

It is important that CARB understand that these alternatives, and specifically averaging, are necessary parts of a paint rule. Averaging must be required when lowering VOC content to allow consumers the ability to choose a durable high-quality coating that meets their needs without, based on CARB's current thinking, sacrificing air quality. Such alternatives allow manufacturers the flexibility to produce high-quality coatings that maintain desired performance characteristics.

We also urge CARB staff to consider including a provision wherein local districts perform a Technology Assessments similar to that found in South Coast Air Quality Management District's recently adopted changes to Rule 1113, to ensure that high quality durable coatings are available in the future.

REACTIVITY

The Draft EIR should evaluate the possibility that limiting solvent content in coating formulations may actually increase ground-level ozone formation (page 2-8). A reactivity-based regulatory scheme will provide CARB with the means to reach and maintain the ozone standard in a manner that is more cost-effective and equitable in its impact on the regulated community. A reactivity-based approach is consistent with the mandates of the Clean Air Act (Sections 183(e)) with its specific reactivity mandate

If the environmental assessment is to have a beneficial impact, it must consider reactivity. Otherwise, the rule may be detrimental to air quality. VOCs in paints need to be examined from a negative vs. positive reactivity posture. As part of the Reactivity Research Working Group and NARSTO, Dunn-Edwards has developed/obtained data that supports a reactivity-based VOC rule. Dunn-Edwards looks forward to sharing this technical data with CARB.

REGIONAL DEREGULATION

CARB should not start with the assumption of statewide regulation. Instead, regulations should be tailored to regional differences to optimize environmental benefits and minimize costs.

AIR QUALITY

Limiting VOC content may or may not reduce ozone. Whether limiting VOC content of architectural coatings actually reduces emissions, and whether reducing emissions actually reduces ozone formation, should be discussed in the air quality analysis to be contained in the EIR.

During the Rule 1113 rulemaking, SCAQMD District staff indicated that current Urban Airshed Models could not demonstrate measurable results from a source as small as CARB's estimate for the entire coatings category. Therefore, implementation of the SCM may not result in a measurable reduction in ozone formation.

The air quality analysis contained in this Program EIR should also consider the levels of ozone non-attainment in the 35 different California air districts. As indicated in Figure 1-2, the number of days the state ozone standard was exceeded as well as the peak ozone varies greatly by air district. This may be the result of numerous factors including differing meteorological conditions, types of industrial processes, reactivity of various VOC emissions, and ratio of VOCs:NOx in those areas. Such factors should be considered in determining whether or not a local architectural coatings rule based on SCM regulation results in measurable air quality benefits.

July 21, 1999

The initial study incorrectly states that there is no possibility that there will be a significant (negative) impact on air quality problems for criteria pollutants. This is inconsistent with CARB's decision to consider the "Seven Deadly Sins," set out on pp. 2-7 to 2-8.

Dunn-Edwards appreciates CARB's efforts in examining innovative and meaningful approaches to dealing with ozone nonattainment. We look forward to working with you on this and other important technological issues. These issues are the keys to the viability of our industry and our mutual goal of clean air.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Howard Berman".

Howard Berman
Senior Vice President and
Environmental Counsel